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**THE ILLUSION OF MOBILE HOMES AS SUPPLEMENTAL HOUSING  
FOR LOW INCOME FAMILIES**

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by

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INTRODUCTION

More than seven million Americans live in mobile homes. Almost half a million homes were made last year. This figure will undoubtedly increase this year. One estimate shows that half of the one-family houses built in the United States today are mobile homes. One reason for this latter figure is the Federal government's willingness in 1970 to provide for FHA mobile home loans.<sup>1</sup>

Some argue that because of the above, mobile homes should be considered as a potential source of housing for low income families. The main thrust of this paper is to counter such ill based thinking. The thesis of this paper is that regardless of what appears to be monumental and positive changes in mobile home living, the majority of state laws presently prevent any meaningful consideration of such homes as a supplemental outlet of decent and safe housing for low income families. In fact, the positive changes in the mobile home industry has created an illusion as to the potentiality of such housing for the low income families.

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<sup>1</sup>CBS News, "60 Minutes: Mobile Homes," Sunday, March 5, 1972.

DEFINITION OF MOBILE HOMES

A mobile home is not a house in the conventional terminology. It is not a building, as the term is often defined.<sup>2</sup> It is only incidentally a vehicle, and may not remain that long.<sup>3</sup> It is not a travel trailer, although its evolution has led to regulation as though it were...<sup>4</sup> The mobile home is at present most assuredly a single-family detached residence.<sup>5</sup>

Pursuant to the above analysis, a workable definition of a mobile home might be as follows:

Mobile Homes: A detached single-family dwelling unit with all of the following characteristics:

- a. Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.
- b. Designed to be transported after fabrication on its own wheels, or on flatbed or other trailers or detachable wheels.
- c. Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like.
- d. The mobile home is designed for long-term occupancy.<sup>6</sup>

It is imperative that the above workable definition be distinguished from a travel trailer. "Travel trailers are designed for short-term occupancy and for frequent and extensive travel.

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<sup>2</sup>Ernest R. Bartley and Frederick H. Blair, Jr. Mobile Home Parks and Comprehensive Community Planning. General Reference.

<sup>3</sup>Ibid.

<sup>4</sup>Ibid.

<sup>5</sup>Ibid.

<sup>6</sup>"Local Regulations of Mobile Home Parks, Travel Trailers Parks and Related Facilities," Mobile Homes Manufacturers Association, p. 12.



They are for recreational and vocational use."<sup>7</sup> Primarily then, the most noticeable distinction is in the duration of usage. That is, the length of occupancy for which the unit is designed rather than length, width, or weight of the unit.<sup>8</sup>

Inherent in many of the legal problems which arise in respect to mobile homes is a question of definition or classification.<sup>9</sup> The field of law, esoteric as it is, could not adhere to a simplistic definition of mobile homes as stated in the above paragraphs. For the most part, the law operates on the principle that a mobile home is of dual quality. It is a vehicle when on the road and a dwelling when at rest.<sup>10</sup>

As a consequence of the duality of mobile home, the reported cases wrestling with the problem of whether a mobile home is a vehicle or a dwelling are numerous.<sup>11</sup> Attorney James Carter in an issue of the Iowa Law Review states that, "...it has been held that a mobile home is a building within the insuring clauses of a fire insurance policy; a dwelling house within a criminal arson statute; a motor vehicle within the terms of a statute of limitations; a vehicle within the meaning of a federal statute providing for confiscation of vehicles used to transport illicit goods; and a building erected upon real estate within the meaning of a restrictive covenant."<sup>12</sup>

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<sup>7</sup>Ibid., pg. 14.

<sup>8</sup>Ibid.

<sup>9</sup>James H. Carter. "Problems in the Regulation and Taxation of Mobile Homes," Iowa Law Review, Vol. 48, pg. 17.

<sup>10</sup>Ibid.

<sup>11</sup>Ibid.

<sup>12</sup>Ibid., pg. 18.

While the preceding illustrations do not directly involve the regulatory problems connected with mobile home living, they exemplify the problems of characterization involved in determining the legal status of mobile homes in varying situations.<sup>13</sup> Within the context of mobile home regulation, the same problem of characterization are involved if the language of a regulatory provision (such as zoning laws or building codes) does not refer to mobile homes as such, and thus, requires a determination of whether or not a mobile home is a single family dwelling, structure, or similar term of reference employed in such restrictions.<sup>14</sup> As one court has stated:

Trailers are sui generis and unless the particular local ordinance expressly makes reference to them courts have often been forced to adopt a somewhat mechanistic and juridically inadequate approach to the problem. Thus the basic question of whether the local ordinance permits or prohibits trailers in a particular locale is generally cast in terms of whether a trailer is or is not a dwelling or house under the particular ordinance. The cases on the question are in hopeless disaccord in rationale.<sup>15</sup>

#### HISTORY OF MOBILE HOMES

Mobile homes are a viable part of the housing supply. Yet, once they have been counted, they become isolated and forgotten. History perhaps can reveal why this occurred.

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<sup>13</sup> Carter, pg. 19.

<sup>14</sup> Ibid.

<sup>15</sup> Jaaprerkowski v. Township of Gloucester, 29 N. J. 481, 490, 150 A.2d, 481, 495 (1959).



In 1936 Time Magazine reported that "although no one knows who devised the automobile trailer, it was one of the fastest growing United States industries."<sup>16</sup> The mobile home, a compact completely furnished efficiently designed urban apartment on wheels is a novel development of the mid-twentieth century.<sup>17</sup> The idea of a moveable dwelling is not new.<sup>18</sup> Over the years people have lived in tents, lean-to shelters, covered wagons, bunk cars, and other portable makeshifts used principally by migratory peoples, military personnel, and construction workers.<sup>19</sup> These forms of shelter were plain, simple, crude accommodations, invariably harsh and possessing none of the amenities of a home."<sup>20</sup> Essentially then, "they were neither regarded nor intended by their occupants as a permanent type of dwelling."<sup>21</sup>

"Out of necessity, the pioneers found a new life on wheels. Many years passed after they had settled before the automobile trailer which was developed in the 1920's....<sup>23</sup> However, it was formally introduced on the market in 1930 by the Covered Wagon Company which by 1936 had become the industry's largest producer.<sup>24</sup> At this time, there were 100,000 trailers in use and an estimated

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<sup>16</sup>Michael G. Fleishman. Mobile Homes: A Plan for Housing Low Income Families, unpublished thesis, University of California, pg. 5.

<sup>17</sup>Barnet Hodes and G. G. Roberson. The Law of Mobile Homes, 2nd ed., pg. 1.

<sup>18</sup>Ibid.

<sup>19</sup>Ibid.

<sup>20</sup>Ibid.

<sup>21</sup>Ibid.

<sup>22</sup>Joseph R. Salinas, "A Study of Mobile Homes and Management," Journal of Property Management, Vol. 29, pg. 281.

<sup>23</sup>Supra, see note 17.

<sup>24</sup>Supra, see note 16.

demand for 300,000 more.<sup>25</sup> Business Week noted that, "with automotive observers and economists predicting a sharp rise in the country's nomad population in the next decade, the trailer coach industry appears on its way toward becoming a big time enterprise."<sup>26</sup> The economist Roger Babson went so far as to predict that within two decades half of the United States population would be nomads living in auto trailers.<sup>27</sup>

#### EXPANSION OF MOBILE HOME INDUSTRY

While the mobile home's impact was primarily in the western United States in 1960, this pattern appears to be changing.<sup>28</sup> For instance, mobile home distribution to dealers in 1964 increased substantially in the southern tier of states from Texas to the East Coast.<sup>29</sup> Mr. Wehrly continues his analysis by reporting that, "the South Atlantic States alone accounted for 25 per cent of total distribution, with the East-North Central and Middle Atlantic States accounting for an additional 25 per cent."<sup>30</sup>

In 1963 at least "every tenth new house in the United States is now a mobile home."<sup>31</sup> The mobile home population in

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<sup>25</sup>Supra.

<sup>26</sup>Business Week. "Rolling Homes are Booming," pp. 22 (June 20, 1936).

<sup>27</sup>Business Week. "Where are the Trailers Going?", pg. 14 (September 19, 1936).

<sup>28</sup>Max S. Wehrly. "The Evolution of the House Trailer," Urban Land, pg. 3.

<sup>29</sup>Ibid.

<sup>30</sup>Ibid.

<sup>31</sup>"The Mobile Home: Rising New Giant in Housing," House and Home, Vol. 23, pg. 136.

the United States in 1964 was approximately 4,000,000 residing in a total of 1,500,000 mobile homes located in approximately 20,000 mobile home parks.<sup>32</sup> The number of residents in mobile homes increased by 140 percent between 1951 and 1961.<sup>33</sup> To meet the mobile expansion, new parks are also expanding. At least one source reports that, "new parks are being developed at an estimated rate of more than 1,000 a year. These newer areas normally are planned for more than 100 mobile homes."<sup>34</sup> Mobile homes are indeed a big business. To illustrate, "in 1963 mobile home manufacturers rang up a new sales record when they shipped 118,000 units valued at more than \$666 million. The mobile home industry has an estimated annual volume of \$1 billion. This figure includes manufacturing, parks, services, suppliers, and land."<sup>35</sup>

Beyond any reasonable doubt, mobile home living is a permanent part of the United States Housing supply and is becoming a recognizable part of "the American scene." Regrettably the mobile home laws of most states have not kept pace with the booming expansion of the mobile home industry.

#### PROBLEM AREAS

Beyond the legal definition of mobile homes, as discussed earlier, there are many other major substantive problems surrounding the use of this type of living accommodation as a supplement

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<sup>32</sup>Hodes and Roberson, op cit., pg. 4.

<sup>33</sup>Ibid.

<sup>34</sup>National Commission on Urban Problems, pg. 438.

<sup>35</sup>Mobile Homes: Rising New Giant in Housing, op. cit., pg. 136.

of the housing supply for low income people. To mention a few of the problems: restrictive zoning; lack of uniform and high construction standards; and lack of mobile home park owner-tenant laws.

(A) Construction Standards:

The American Standards Association in 1963 formally approved code provision A-119.1, American Standard for Installation in Mobile Homes of Electrical, Heating and Plumbing Systems. Subsequent to this adoption, the Building Officials and Southern Building Codes Congress have approved the adoption of A-119.1.<sup>36</sup>

Even with the above regulations the construction standards of mobile homes still remain very ineffective. A recent CBS News Program - "60 Minutes" - substantiated this observation. In Phoenix, Arizona there are eight times the mortality factor in mobile homes as in ordinary dwellings.<sup>37</sup> Mobile homes are more easily destroyed by fire and other natural disasters than conventional homes. One reason for the high rate of fires is the plywood used is coated with highly combustible materials.<sup>38</sup> High winds present the most common of the natural disasters of mobile homes. A large number of mobile homes are not connected to a cement foundation and thus in high winds they are easily destroyed.<sup>39</sup>

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<sup>36</sup> Mobile Homes Manufacturers Association, op. cit., pg. 12.

<sup>37</sup> CBS News, op cit.

<sup>38</sup> CBS News, op cit.

<sup>39</sup> Ibid.

Even with construction codes, there is no guarantee that all mobile home manufacturers are members of the associations governed by the codes. To worsen the situation, most states have not taken it upon themselves to legislate construction standards for mobile homes.

(B) Mobile Home Park Owners-Tenant Relationship:

Most local governmental sub divisions, through restrictive zoning laws, restrict mobile homes to mobile home parks. This has in some situations created a governmental sanctioned private monopoly.<sup>40</sup> Monopoly zoning restriction and lack of effective laws have placed in the hands of some park owners uncontrolled powers.

One of the biggest problems, even before the landlord/tenant relationship commences, is that of admission to the mobile home park. Generally, the park owner/operator is vested with broad discretionary powers of admission. Of course, the law forbids discrimination in the selection of tenants. However, discrimination, unless it is so blatantly obvious, is such an evasive and illusive practice that it becomes extremely difficult to detect. The park owner/operator in rejecting admission need not give a reason for such denial.

Other forms of discrimination consist of denying space to persons who drive old shabby automobiles. ADC mothers are heavily subjected to this type of discrimination. "Hippies" and other "un-mid-America" appearing persons have complained

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<sup>40</sup>Recent Case, Lavorie v. Bigwood. See Bibliography for full citation.



of being refused admission. Families with a large number of children have likewise been denied admission. Again, the problem of substantiating allegations of discrimination becomes extremely difficult the more subtle the practices move from race discrimination.

Once the tenant moves into the mobile home park other conflicts emerge between the landlord and himself. In most cases, the problems are the result of the stringent rules governing mobile home living.<sup>41</sup> Any infraction of the rules may result in an immediate eviction notice.<sup>42</sup> With the landlord possessing such forceful potential power, the tenants, are for the most part, afraid to complain of bad living conditions. For example, one couple sought legal assistance from my office because the landlord was increasing their rent. Upon closer investigation they reported many health code violations, i.e. open sewage, electrical wires on the ground. These clients refused to report these violations for fear of being evicted.

Another problem the tenant must encounter is that of being informally black-listed. There are no empirical data to support this, but the general practices seem to indicate - at least in some localities - that once a tenant is evicted from a mobile home park, other park owners in the locality are informed of this eviction. The end result is that the tenant with his five or six thousand dollar mobile home investment is unable to reside in any mobile home park in the localities which abide by this practice.

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<sup>41</sup> Regulations of Bon-Aire Mobile Home Court, Iowa City, Iowa.

<sup>42</sup> Ibid.

Perhaps the most distressing problem in this relationship is the frequent absence of leases. It appears to be the standard practice in most localities not to have written leases. Without such, the tenant has a tenancy at will and is subject to eviction with only a month's notice. This places an extreme hardship on most tenants for two reasons: (a) the difficulty in finding a place to relocate and (b) the heavy cost to move and relocate.

The problems as mentioned are by no means totally inclusive. The conflicts between the tenant and the landlord are unique with each relationship. Nevertheless, the problems in the previous discussion are a fair representation of the general areas of conflict.

#### CONCLUSION

It becomes evident from the previous sections of this paper that the mobile home industry is in need of reform. If mobile home living is to be used to alleviate housing problems of the poor...extensive public expenditures will be necessary.<sup>43</sup> For too long the problem of mobile home parks has been regarded primarily as one of local concern.<sup>44</sup> As stated earlier, the state's interest in mobile homes have been primarily concerned with health and zoning codes and motor vehicular regulations. Legislative action is necessary to help remove the stigma that has plagued the mobile home since its inception. Notwithstanding the urgency

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<sup>43</sup>Richard W. Bartke and Hilda R. Gaye. "Mobile Homes: Zoning and Taxation," Cornell Law Review, Vol. 55, pg. 513.

<sup>44</sup>Ibid.

for the legislature to reform the laws of mobile homes and mobile home parks, litigation is also a requisite for mobile home reform.<sup>45</sup>

#### SUMMATION

This paper has attempted to illustrate the transformation of the limited used trailer to that of a big mobile home industry. Such transformation culminating in the mobile home becoming a major and permanent segment of our housing supply. Notwithstanding these positive changes, the mobile home still remains within the control of archaic laws. Such laws, for the majority of states, include the classification of a mobile home as a motor vehicle, restricting the mobile home to limited and monopoly operated mobile home parks; the lack of adequate construction codes which have resulted in extreme health hazards to the mobile home user; and the unequal bargaining position of the mobile home tenants to that of the mobile home park owners. Until conditions are improved, it would seem that the low income tenant would be much better off to remain in conventional housing. At least in conventional housing the low income tenant has some laws to protect his interest; in a mobile home there are no such laws. Until adequate laws are enacted, mobile homes as adequate housing for low income tenants will remain an illusion.

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An analogy for reform may be drawn from housing law materials e.g. Model Residential Landlord Tenant Code, Julian Levi: Edward v. Habid, 397 F 2d 687 (D.C. Cir. 1963) and other such related materials.

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"This book is about mobile homes as dwelling units, the mobile home park as a required setting for this kind of dwelling unit, and the place of the mobile home park in the comprehensive plan for urban and urbanizing areas. It also suggests meaning for correcting some past mistakes, and seeing to it that they do not happen again."

Within the philosophy of which this book was written it has great value. However, its inadequacy is that it accepted the status quo as being the acceptable meanings of operation.

Blair, Frederick H., Jr. Local Regulation of Mobile Home Parks, Travel Trailer Parks and Related Facilities. Chicago, Illinois: Mobile Homes Manufacturers Association, 1965.

This book is a technical tool for those governmental subdivisions interested in drafting ordinances and regulations pertaining to mobile homes, mobile home parks, travel parks and related facilities.

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The authors of this book provide a detailed description of mobile homes and mobile home parks. As the title indicates the book discusses the laws that govern mobile homes and mobile home parks. The most predominate short coming of this book is its failure to provide any meaningful in depth analysis of the laws as description. In essence this book only synthesized the laws of each mobile home state into broad areas of similar characteristics. The book value is providing researchers with a one volume collection of the laws of mobile homes from each state and the appendix which provides the actual text of each state's law of mobile homes.

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This statute has recently been enacted and it prohibits eviction from mobile home parks without cause.

All evidence indicates that this is one of the first innovative state legislative enactments designed to give more protection to the tenants of mobile home parks.

Federal: 1968 Housing Act, 12 USCA 1461 et. seq. 1970 Housing Act 12 USCA 1461.

The 1968 Housing Act, authorized saving and loan associations to invest up to 5% of their assets in chattel paper on mobile homes.

The 1970 Housing Act authorized FHA to increase the maximum terms from 15 to 40 years and to increase the maximum mortgage amount from 75% to 90% of value.

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The New Hampshire Court recently states that "Merrimack, New Hampshire, restricts mobile home owners, apparently for esthetic, and perhaps for tax reasons, in ways which it does not restrict those who prefer to live in conventional homes." By such action the court held "that the state and city has created a private monopoly which is unlawful."

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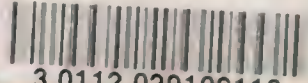
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